

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

March 4, 2016

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, MARCH 4, 2016, BEGINNING AT 9:02 A.M., WITH VICE-CHAIR DONALD S. GUZMAN PRESIDING.

VICE-CHAIR GUZMAN: Good morning. Welcome to the Maui County Council regular meeting shall now come to order.

I'm Don Guzman, the Vice-Chair of the Council, acting as Council, acting as Council Chair today. Mr. White is not present.

Can we please do the roll call?

ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, G. RIKI HOKAMA, MICHAEL P. VICTORINO, AND VICE-CHAIR DONALD S. GUZMAN.

EXCUSED: CHAIR MICHAEL B. WHITE.

COUNTY CLERK DENNIS A. MATEO: Mr. Chair, there are eight Members present and one excused. A quorum is present to conduct the business of the Council.

VICE-CHAIR GUZMAN: Thank you.

Today we have Councilmember Mike Victorino that will give the opening remarks.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

OPENING REMARKS

The opening remarks were offered by Councilmember Michael P. Victorino.

VICE-CHAIR GUZMAN: Thank you, Mr. Victorino. That was very nice, and you have a very beautiful lei this morning.

COUNCILMEMBER VICTORINO: Thank, thank you, Chair.

VICE-CHAIR GUZMAN: Members, can you please rise and we'll say the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

VICE-CHAIR GUZMAN: Thank you. Before we proceed, if anyone has a cellphone; please place that on the silence mode.

Mr. Clerk, you may proceed.

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 16-31

CONGRATULATING MICAH KUAMOO
FOR WINNING A GOLD MEDAL AT THE
2016 USA BOXING JUNIOR OPEN AND
YOUTH NATIONAL CHAMPIONSHIPS

VICE-CHAIR GUZMAN: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RESOLUTION ENTITLED
"CONGRATULATING MICAH KUAMOO FOR WINNING A
GOLD MEDAL AT THE 2016 USA BOXING JUNIOR OPEN
AND YOUTH NATIONAL CHAMPIONSHIPS".

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Couch, seconded by Ms. Baisa.

Any further discussion?

COUNCILMEMBER COUCH: Nope. Wait, wait, wait. Sorry.

VICE-CHAIR GUZMAN: Yes, Mr. Couch.

COUNCILMEMBER COUCH: Mr. Chair, may I request that the reso be read by, in its entirety by the Clerk?

VICE-CHAIR GUZMAN: Mr. Clerk.

(The resolution was read in its entirety.)

VICE-CHAIR GUZMAN: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

What qualifies, what qualities define a great boxer? Boxers are a combination of technical skill and willpower, strength and finesse, along with tremendous physical and mental toughness. Boxing teaches participants to not only survive, but thrive in any situation.

The commitment to training and developing physical skills are evident when you watch a boxing match; movement, quick reflexes, and powerful accurate punches. What it is, what is not obvious is the mental discipline, courage, and highly developed sense of timing and distance which great boxers bring to every match.

Micah has worked for the past seven years to continually improve his skills. He's a proud member of the Southside Boxing Club in Kihei, training in an 18-foot boxing ring Coach Nante Manangan created in his garage. Coach Nante is a member of the Hawaii State Boxing Commission and highly respected in the boxing community. His fighters are trained to bring discipline, humility, respect, and sportsmanship to every bout.

Micah and Coach Nante will be travelling to Dallas, Texas, in June to compete in the Junior Olympic National Championships, and then onto an international match with China or Russia in August of this year.

I know Micah will represent Maui and Hawaii with pride, and I ask Members for their full support of this resolution. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Any further discussion?

Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. I would like to offer my words of congratulation and encouragement to Micah Kuamoo for his wonderful gold medal. However, it's more than a gold medal. I had the opportunity about two years ago at the invitation of a friend to attend one of the Southside Boxing events that they do. And, I became a aficionado and now I'm, I'm on the TV all the time watching MMA and boxing and stuff that I never knew about before.

But, you know, having the opportunity to be close to somebody like Nante, and the boys, and the girls. The girls are incredible; I love watching the girls fight. But, you know, having this opportunity to see how well he works with the, with the youth, it's really impressive. You know, he does this with very little support. He gives much of his personal time. His whole family is involved, and yet, they've done incredible things. And, they have mentored and helped many youth succeed.

His, Micah is not the first. And, I know there's a whole bunch of people behind them. But, I do want to say that this is a real quietly done thing that's going on in our community, except for these public bouts that they have every now and then. I didn't even know this was going on in Kihei. But, it's a big deal. Many people are involved. And, Coach Nante, I think, is some kind of a hero. And I wish that we could do something for him also. And, I'll be happy that he'll be up here with Micah today.

But, you know, when an individual takes on this kind of undertaking and gives as much of his personal time and treasury to something, I think it's noteworthy. And, the results are that we produce people like Micah.

So, congratulations to Micah, and to Coach, and to all of the people who assist with Southside Boxing. It's something to be very proud of in our community. Thank you.

And, by the way, they will have another event. It's going to be a boxing event at the War Memorial on March 12, that's a Saturday, and it'll be around six o'clock. And, for any of you that want to see some of this, come join me. Thank you.

VICE-CHAIR GUZMAN: All right, let's get ready to rumble.

COUNCILMEMBER BAISA: Yes, I'm ready.

VICE-CHAIR GUZMAN: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yea, congratulations to all that make this type of accomplishment happen. I know it takes time, energy, effort, blood, sweat, and tears, the whole way, and the training. Having gotten my black belt and also help sparring, and training, and kickboxing with some women fighters in West Maui. And boxing goes way back in the roots of my family. My uncle, who's still living, was the youngest licensed boxing coach in Kalihi on Oahu. So, yea, it's, it's part of my blood too.

So, congratulations. I wish I wasn't in this age where I can't fight . . . anymore. So, take it while you can and give it your best shot at all times, keep your guard up, obviously. But, congratulations, and thank you, because this does create that indomitable spirit in our children to grow up to great strong adults. So, keep up the good work, and awesome to see this type of accolades here at the, at the Council level. So, mahalo.

VICE-CHAIR GUZMAN: Very good. Any other further discussions?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I had a family member who was also into boxing from very young, and I watched the dedication that he went through and all those that trained with him. And, I never saw a finer group of young men, of control and dedication, and the willingness to do what was necessary to excel at their sport. And, I've always had a great admiration for all of those that went through what you have to go through to achieve what Micah has done. Congratulations.

VICE-CHAIR GUZMAN: Thank you. Is there any other?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Yea, thank you. And, I will echo my sentiments of my colleagues. I want to congratulate Micah and his family for the hard work and dedication that they put forth. And he has demonstrated, again, showing that you can come from a small island and, with limited resources, and really hit the big show and show what can be done.

And, I want to thank Coach Nando *[sic]*, because look at what he has to go through. And his own garage is the boxing ring, you know; he doesn't have any facilities. And, maybe this County ought to consider doing something in the not too distant future, especially when we build our 200-acres of our regional park. You know, maybe that should be inclusive. There's so many other sports than just baseball, soccer, and, and, and basketball, and others that we want to make sure all of them are included.

But, I want to congratulate them, keep up the good work, wish them nothing but continued success. And, in talking with Micah, I believe this young man knows where he wants to go, and will get there. Thank you, Mr. Chair.

VICE-CHAIR GUZMAN: Thank you. Any other further comments?

Ms. Baisa.

COUNCILMEMBER BAISA: I just want to second the motion that Mr. Victorino made. I hope some time we would be able to get a facility for boxing. Thank you.

VICE-CHAIR GUZMAN: Thank you. Well noted.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I'd like to join my colleagues, and all of Maui County to congratulate this young man and his coach, and I guess their, their whole team. And, most of all I express continued success and good luck in your athletic endeavors. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: I'm happy to add my comments of congratulations, especially from the people of Lanai, to the Kuamoo family. I would say it's been a while, I mean, Hawaii, we've been spoiled in the past, in the 70's, 80's, of the Andy Ganigan's, the Ben Villaflor's, who became world champions at the professional level. And, there is no reason why a Micah Kuamoo cannot continue his road of success, and eventually become a world professional champion also, Mr. Chairman.

So, I extend my congratulations. And, it is the continuation of the proud heritage of boxers from the State of Hawaii, and we look forward to the continued success of Micah Kuamoo. Thank you.

VICE-CHAIR GUZMAN: Thank you. And, I'll add with my comments as the Acting Chair. I'd like to congratulate Micah for representing the State of Hawaii and, and achieving such greatness, and earning the right to carry and wear the medal, the gold medal. Hawaii is known as the Aloha State, but we are also fierce warriors. So, you are representing the entire State, the family and friends that are rooting for you.

Just to say a few comments for our Council, I, I'm quite impressed of, with our women are, are very tough. So, it's like our Council is a tough gang here, pretty much scrappers. I know Mr. Wong is a scrapper as well. So, I know that we have two wrestlers, as Mr. Couch and Mr. Victorino. So, we all know how hard it is to dedicate yourself for that type of sport. And, we hope and, and give us our, our greatest aloha in your future endeavors. So, thank you very much.

Mr. Couch.

Oh, I will call for the vote. All those in favor, say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carries.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. May I ask that Micah and his entourage come up to the, up to the podium so he can receive his congratulations?

VICE-CHAIR GUZMAN: Yes. You may proceed. Thank you.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

Members, with Micah is, obviously, Coach Nante and then also Kawai and Pinoy are here with him. So, without further ado, I'd like to have Coach Nante come up and say a few words. And, then we'll give Micah a chance to talk too.

COACH NANTE MANANGAN: Thank you. My name is Nante, I'm the Coach for Southside Boxing Club and I've been doing this now for the last 20, 21 years, I guess, at my house. And, first of all, I want to thank you all for having us, congratulating Micah for his achievement.

Micah came to my garage when he was like about seven years old. I think he had ice cream all over his face. He was still chasing after the ice cream truck.

And, but over the years, they never stop coming, him and his other two brothers. Now, the sister is coming. So, they just keep coming. And, I told them about the big picture. They never know, at seven years old, you don't know what's the big picture. And, so when we got to Reno, he was like, okay Micah, you ready? This is the big picture.

And, Kawai came with us too, and said wow, it's the first time he ever see snow. So, I told him, you know, whoever find the yellow snow is the winner.

But, anyway, Micah has put in a lot of hard work with his team, you know, and his dad keep bringing them. So many times they wanted to quit, cause you know, at seven, eight years old you cry all the time when, when you start sparring. But, they never stop and they kept coming, so they got to see the big picture. Now he's the National Champion. And, there's a lot of, I told him the other day, yesterday, I told him that now that you are a champion, everybody wants to take you off that seat. You know what I mean? So, he has to work little, extra hard now to keep the, keep this medal.

And, there's a lot of other stuff we're going to be doing this year. There's so many things we're doing. And, so there's a lot of fundraising we're going to be doing and stuff like that. So, you know, got to keep the dream alive, yea.

And, there's so many, like we had another National Champion. We was, we wasn't in a, you know, we was kind of on the quiet side like you said. My first National Champion was in 2008, she was a female. She won it in Colorado, Colorado, Colorado Springs. Her name is Chazzy, Chazette Sau, and she's now 22. She's got a couple kids now and stuff.

But, anyway, thank you, Don Couch, Councilmember Don Couch for having us for this amazing, to get to sit here with all you folks is like wow. And, this is like a learning experience for me and for the kids too. So, thanks.

COUNCILMEMBER BAISA: Thank you. Thank you, Nante.

MR. MICAH KUAMOO: Hi, I'm Micah. Yea, I just recently won nationals, the J.O. Olympics.

I want to thank you guys for giving me an opportunity to share my story. Yea, so I was nervous when I went up to Reno, because of my first time leaving Hawaii. And, I want to thank Coach for giving me all these challenges I can accomplish in life.

And, yea, I was fighting with a flu and it was really hard. And, then I was also losing my weight out there so I can eat good every night . . . to be starving, Fiber One. And, yea, I was inspired to do this sport ever since I was seven years old. And, I would always just come show up to the gym and show my hard work.

And, I want to thank you guys for having me here. I'm so nervous.

COUNCILMEMBER BAISA: Don't be.

MR. KUAMOO: And then, I want to thank you guys for everything you guys did for us, supporting our gym. And, for Coach giving me these challenges I can do. And, yea, thank you guys.

COUNCILMEMBER COUCH: Thank you, Members.

VICE-CHAIR GUZMAN: Thank you, Mr. Couch.

Proceeding on, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with presentation of testimony on agenda items. We have established limited telephone interactive communication that enables individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

Individuals there who wish to offer testimony should now sign up with the District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located on the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

And pursuant to the Rules of the Council, each testifier is allowed to testify for up to three minutes with one minute to conclude if requested. And, when testifying, please state your name and the name of any organization you may represent.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai, and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ELLA ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

COUNTY CLERK: Thank you.

Mr. Chair, we have no one in the chamber who have signed up to testify this, this morning. And, Mr. Chair, we have been advised that from the Hana Office there is no one there wanting to testify.

VICE-CHAIR GUZMAN: Thank you, Mr. Clerk.

Is there any written testimony that has been submitted?

COUNTY CLERK: Mr. Chair, we have received written testimony.

VICE-CHAIR GUZMAN: Thank you.

Members, without objections, we will receive the written testimony into record.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Thank you. So ordered.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY
RECEIVED FROM THE FOLLOWING WERE MADE A PART
OF THE RECORD OF THIS MEETING:

1. Tina Hoenig;
2. Mary L. Spencer; and
3. Harley I. Manner.

(Councilmember Cochran was excused from the meeting at 9:27 a.m.)

VICE-CHAIR GUZMAN: Without any written, without any objections, we'll now close public testimony.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Thank you. Public testimony is now closed.

Mr. Clerk.

COUNTY CLERK: Mr. Chair.

COUNCILMEMBER HOKAMA: Mr. Chairman, Mr. Chairman.

VICE-CHAIR GUZMAN: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: May I raise a point of personal privilege at this time please?

VICE-CHAIR GUZMAN: Yes.

COUNCILMEMBER HOKAMA: Thank you. Mr. Chairman, Members, I take this moment of personal privilege. I would just like to quickly introduce one of our peers, our guest from the great State of Iowa. He is from Linn County, which is the second largest County in the State. He also was a colleague of our past President, Jane, not Halliburton, Linda Langston, my apologies to Linda. How quickly we forget. So, at this time, Members and Mr. Chairman, I'd like to introduce James Houser. He's a Linn County Board of Supervisor for the State of Iowa.

VICE-CHAIR GUZMAN: Please rise to be acknowledged. Thank you.

COUNCILMEMBER HOKAMA: Thank you so much, Mr. Chairman.

VICE-CHAIR GUZMAN: Thank you, Mr. Hokama.

Proceeding, Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with committee reports.

(Councilmember Cochran returned to the meeting at 9:29 a.m.)

COMMITTEE REPORTS

COMMITTEE REPORT

NO. 16-33 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 25 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE - SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF POLICE (HAWAIIAN COMMERCIAL & SUGAR COMPANY (HC&S) COMMUNITY INITIATIVE GRANT PROGRAM)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from you and the Members, I would request the Clerk to also bring up Report 16-34 and 16-35.

VICE-CHAIR GUZMAN: Mr. Clerk.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: No objections noted.

Mr. Clerk.

COMMITTEE REPORT

NO. 16-34 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 26 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FIRE AND PUBLIC SAFETY, ADMINISTRATION/MAINTENANCE PROGRAM; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 16-35 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 27 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FINANCE, ACCOUNTS PROGRAM; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

VICE-CHAIR GUZMAN: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Mr. Chairman.

I MOVE THAT COMMITTEE REPORTS 16-33, 34, AND 35,
ALONG WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Hokama, seconded by Mr. Victorino.

Any further discussion?

COUNCILMEMBER HOKAMA: Chairman, again, all bills are being recommended by your Committee to pass first reading and be ordered to print, as read by the Clerk. These

are basically housekeeping measures, either making a adjustment between "B" and "C" categories, or acceptance of grant funds. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: Eight "ayes", no "noes", one "excused"; motion carries.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NOS. 25 (2016), 26 (2016), 27 (2016), respectively.

COMMITTEE REPORT

NO. 16-36 - WATER RESOURCES COMMITTEE:

Recommending the following:

1. That Bill 28 (2016), entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE AGRICULTURAL WATER RATES FOR PROPERTIES OWNED, OPERATED, OR MANAGED BY THE UNIVERSITY OF HAWAII COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 15-297, from Councilmember Gladys C. Baisa, be FILED.

VICE-CHAIR GUZMAN: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT NO. 16-36.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: There's a motion on the floor by Ms. Baisa, seconded by Mr. Victorino.

Further discussion?

COUNCILMEMBER COCHRAN: Chair.

VICE-CHAIR GUZMAN: Ms. Baisa.

COUNCILMEMBER COCHRAN: Oh, sorry.

VICE-CHAIR GUZMAN: Oh, I'm sorry.

COUNCILMEMBER BAISA: Call on me.

VICE-CHAIR GUZMAN: Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair. At its meeting of February 17, 2016, your Water Resources Committee voted 5-1 to recommend passage of a proposed bill entitled "A BILL FOR AN ORDINANCE TO AUTHORIZE AGRICULTURAL WATER RATES FOR PROPERTIES OWNED, OPERATED, OR MANAGED BY THE UNIVERSITY OF HAWAII COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES" on first reading, and filing of the communication.

The purpose of the proposed bill is to authorize agricultural water rates for properties owned, operated, or managed by the College of Tropical Agriculture and Human Resources, University of Hawaii at Manoa.

The college serves the citizens of Maui County by providing science-based research, education and public service to help them solve problems in agriculture, natural resources, food and nutrition, food safety and community development. These services are provided through facility and staff of Cooperative Extension located in

Kahului and Hoolehua, and the Maui Agricultural Research Center located in Kula. This is the only research institute of its kind in the State.

The Department of Water Supply determined the College is ineligible for agricultural water rates because it did not meet the required income provision in the definition of "agricultural consumer".

The proposed exemption would reduce the College's annual water charges by approximately \$8,000. Please note the Department supports the proposed bill.

Finally, if additional institutions of this type are created, we are definitely willing to revisit this ordinance again.

I respectfully request the Council's consideration of the motion. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I, if we all recall during deliberations, that I was the sole "no" vote on this. And, so just want to reiterate, personally for me, I feel that the ag water or the water is intended for ag, actual plants ag. And, and, not, I completely appreciate education and all that, and feel that the College itself has land where they can do such services and/or the State and, and everyone else can find alternate places in order to do such type of activities of their educational experimental side. But, the land itself ought to, or the water itself ought to be used for actual agriculture. So, thank you, Chair.

VICE-CHAIR GUZMAN: Thank you.

Any further?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Mr. Chair, thank you. And, I've had an opportunity to attend and go to the site, understand the research that is done, which is pivotal to our agricultural industry. You know, they're not only doing it for Maui County, but the entire State. And, I think it's very important to understand that this is an, a tropical research center which is ag based. They are doing things for agricultural purposes.

And, when the Department originally said no to them, I was one of those that was a little appalled at that, but understood. So, we went through this process, and I really believe that to continue to support ag, we talk the talk, now we got to be able to walk the walk.

And, this is a pivotal part of our whole industry. Without research, when diseases and other challenges come into our, our environment, other invasive species whether they're plants, bugs, whatever, these are one of the areas where they go to, to do some research.

So, it's really important, and I believe that helping them do what is good for agriculture here in Maui County and the rest of the State only behooves agriculture. And, I want to continue to see agriculture thrive. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Any, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, I just want to thank Mr. Victorino for sharing that because CTAHR, as we know, are the agents and the, the entity that provides all the, I could say research or, or they're the encyclopedia for the, the farmers. And, it's, it's too bad that the University is not stepping up to more that they can help, but in order for us to give them the agricultural water rates, they're able to extend further in cutting down the cost in, in their provisions of providing for.

And, like Mr. Victorino mentioned, agriculture for the farmers, they're, they're the key people that when I was growing up, and I, we still utilize them on Molokai, they're the people where we, we use to call the University Extension Service and, and that's what they do, they provide the service for, for the farmers.

So, thank you, Councilmember Baisa for bringing this forth. And, I fully support this measure. Thank you.

VICE-CHAIR GUZMAN: Thank you.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COUCH,
CRIVELLO, HOKAMA, VICTORINO, AND
VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: COUNCILMEMBER COCHRAN.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have seven "ayes", one "no", and one "excused"; motion carries.

Thank you, Members.

Mr. Clerk.

COUNTY CLERK: For the record, BILL NO. 28 (2016).

Mr. Chair, proceeding with County Communications.

COUNTY COMMUNICATION

NO. 16-41 - ALAN M. ARAKAWA, MAYOR,
(dated February 18, 2016)

In accordance with Section 2.41.040, Maui County Code, informing of a vacancy on the Molokai Planning Commission due to the resignation of William Buchanan on February 17, 2016.

VICE-CHAIR GUZMAN: Mr. Victorino.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I MOVE TO FILE COUNTY
COMMUNICATION 16-41.

COUNCILMEMBER COUCH:

SECOND.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Victorino, seconded by Mr. Couch.

All those, any further discussion?

COUNCILMEMBER VICTORINO: Mr. Chair, I just want to make a quick note. And, I want to thank you, thank Mr. Buchanan for serving on the Maui *[sic]* Planning Commission, and wish him continued success. Thank you.

VICE-CHAIR GUZMAN: Any other further discussion? Seeing none, all those in favor, say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carries. Thank you.

Mr. Clerk.

NO. 16-42 - ARNOLD K. WUNDER, CHAIR, CIVIL SERVICE COMMISSION,
(dated February 16, 2016)

Informing of the appointment of David J. Underwood as the next Director of Personnel Services, effective July 1, 2016, upon the retirement of Lance Hiromoto.

VICE-CHAIR GUZMAN: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO FILE COUNTY COMMUNICATION 16-42.

COUNCILMEMBER COUCH:

SECOND.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Victorino, seconded by Mr. Couch.

Any further discussion?

COUNCILMEMBER VICTORINO: Mr. Chair.

VICE-CHAIR GUZMAN: Mr., Mr. Victorino.

COUNCILMEMBER VICTORINO: First of all, I want to congratulate David Underwood for being named by the Commission for the next Director of Personnel Services. I would like to also extend our congratulations and gratefulness to Mr. Lance Hiromoto for all his years of service to this County, and to that Personnel, as Director of Personnel Services.

Mr. Hiromoto, in many cases, has come before this Council in my tenure here, and has tried to make us understand and tried to help us make the system a better system. And, at times, we've had some, some small success. So, I want to wish him continued success in his venture as retiring from the County of Maui. And, and hope that Mr. Underwood will continue the track that we've set as far as changes in civil service. Thank you, Mr. Chair.

VICE-CHAIR GUZMAN: Thank you, Mr. Victorino.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", zero "noes", one "excused"; motion carries. Thank you, Members.

Mr. Clerk.

NO. 16-43 - ROBERT CARROLL, CHAIR, LAND USE COMMITTEE,
(dated February 24, 2016)

Transmitting a proposed resolution entitled "APPROVING A TIME EXTENSION OF THE CONSTRUCTION INITIATION DATE FOR THE KAIWAHINE VILLAGE 201H PROJECT".

VICE-CHAIR GUZMAN: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO DISCHARGE THE LAND USE COMMITTEE FROM FURTHER CONSIDERATION OF THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION 16-43, ENTITLED "APPROVING A TIME EXTENSION FOR THE CONSTRUCTION INITIATION DATE FOR THE KAIWAHINE VILLAGE 201H PROJECT".

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: Thank you. There's a motion on the floor by Mr. Carroll, second by Mr. Victorino.

Any further discussion?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. This matter is time sensitive because of the deadline to commence construction of the Kaiwahine Village 201H Project is currently March 18, 2016. For that reason, I am requesting the Land Use Committee to be discharged from consideration of the proposed resolution to enable the Council to consider taking action today.

VICE-CHAIR GUZMAN: Thank you. Thank you, Mr. Carroll.

Any further discussion?

Seeing oh yea, Ms., Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I, I was not part of the Council when it, this, the original request came up forward. But, I would just like to say publicly that we would like to hold the developer accountable, according to the agreement of building affordable, affordable homes that's attainable for buyers of Maui. And so the two-year extension for the construction will allow this. And I, for me, it's holding the developer accountable to build what we define as affordable homes. Thank you.

VICE-CHAIR GUZMAN: Thank you, Ms. Crivello.

Any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. On a discharge like this, is there any way we can request that a committee report still be done just so that we know what happened in that meeting. Other, because normally there would be no committee report.

VICE-CHAIR GUZMAN: So this, it wasn't referred to a Committee so we just have the--

COUNCILMEMBER COUCH: No, we discussed it in Committee.

VICE-CHAIR GUZMAN: Oh, we did?

COUNCILMEMBER COUCH: Yea, this was discussed in Committee. That's why we're discharging it.

VICE-CHAIR GUZMAN: Okay, what?

COUNCILMEMBER COUCH: So I'm wondering if that could be--

VICE-CHAIR GUZMAN: Why don't we take a quick recess.

COUNCILMEMBER COUCH: Okay, thank you.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:43 A.M., AND WAS RECONVENED AT 9:47 A.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

VICE-CHAIR GUZMAN: Council meeting shall now reconvene.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. In, in discussing the procedure, I would like to ask that the Chair of the Land Use Committee provide us, provide Council with a letter as to what happened during that meeting, and we can discuss it, I mean, we can put it in the March 18 meeting.

VICE-CHAIR GUZMAN: Mr. Carroll.

COUNCILMEMBER CARROLL: Yes.

VICE-CHAIR GUZMAN: So he's agreeable to that.

COUNCILMEMBER COUCH: Thank you.

VICE-CHAIR GUZMAN: Thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, I believe we still have the matter of the discharge.

VICE-CHAIR GUZMAN: Yes. So, I'll call for the vote. All those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, VICTORINO,
AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have seven "ayes", one "no", and one "excused"; motion carries.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Excuse me.

I MOVE TO WAIVE THE RECOMMENDATION,
REQUIREMENT OF COMMITTEE REFERRAL AND REPORT
FOR THE PROPOSED RESOLUTION ATTACHED TO

COUNTY COMMUNICATION 16-43 PURSUANT TO
RULE 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Carroll, seconded by Mr. Victorino.

Further discussion?

Mr. Carroll.

COUNCILMEMBER VICTORINO: Chair.

VICE-CHAIR GUZMAN: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. And, I think this is where I'd like to echo my sentiments as some of my colleagues have mentioned.

I won't be here in two years if this, this goes through in giving them an extension of two years. But, I will hope my successor will read these notes and see that I do not enjoy extending for someone who had made so many promises to us back five years ago. And, I've never been comfortable with this whole situation. I've never been comfortable with the developer of this property. I still am not.

However, due to the fact that he and others have assured me that they really will get this done, we will see. But, I won't be here in two years. And, if they haven't, by golly, let's yank it and send it to somebody else or give it to somebody else, because I'm tired of developers.

You know, I fight hard for water and other issues to get things done for affordable housing, and here developers promise us a hundred percent. And, still today, not a blade of grass or dirt has been moved in that area, unless something has happened in the last day or two. Cause I was there last weekend and I didn't see anything changed.

So, my hope is that this will be the message that the developer hears, that if he's not going to get it done, then either get it to somebody else, get out of the picture, or you're going to lose your entitlements. Thank you, Mr. Chair.

VICE-CHAIR GUZMAN: Is there any further comments or discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: So, Chair, and the sentiments of Mr. Victorino, I believe was discussed during Committee. And, and it was, had to do with the two-year time extension. And, I wanted to get it in black and white in writing about just a one-time only. So, whether we're all here or not, it is stated in black and white, on this reso, in the be it resolved, that states such language. So, would this be the time.

VICE-CHAIR GUZMAN: Is there a motion that you're prepared to make?

COUNCILMEMBER COCHRAN: Yea, I want, I want to move--

COUNCILMEMBER CARROLL: Excuse me--

COUNCILMEMBER HOKAMA: Point of order, Chairman.

COUNCILMEMBER CARROLL: Point of order.

VICE-CHAIR GUZMAN: Oh, I'm sorry, we have to waive that.

COUNCILMEMBER COCHRAN: Oh, we're just on the waiver still? Oh okay.

VICE-CHAIR GUZMAN: We're still waiver.

COUNCILMEMBER CARROLL: Point of or, yea.

VICE-CHAIR GUZMAN: I apologize.

COUNCILMEMBER CARROLL: Chair.

VICE-CHAIR GUZMAN: You may continue. Oh, are you finished, Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay, never mind. I'll wait. No, no, no I'll wait till when it's the appropriate time.

VICE-CHAIR GUZMAN: Okay. Mr. Carroll.

COUNCILMEMBER CARROLL: For a matter of clarification over here. The approval is the motion by two-thirds vote of the entire membership of the Council will enable the Council to consider the time-sensitive resolution today at which time we can have this discussion. Thank you, Chair.

VICE-CHAIR GUZMAN: Correct.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, VICTORINO,
AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have, we have seven "ayes", one "no", and one "excused"; motion carried.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION
ATTACHED TO COUNTY COMMUNICATION 16-43, AND TO
FILE COUNTY COMMUNICATION 16-43.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Carroll, seconded by Mr. Victorino.

Any further discussion?

VICE-CHAIR GUZMAN: Mr. Carroll.

COUNCILMEMBER CARROLL: Chair.

VICE-CHAIR GUZMAN: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you. Your Committee met on February 17, 2016, and March 2, 2016, to consider a request to extend the construction initiation date for the Kaiwahine Village 201H Project as originally stated in Resolution 11-23. Modification 4 of that resolution require the construction of the project shall begin within five years of the adoption of this resolution, and be completed within ten years.

Your Committee revised the resolution as reflected in the version attached to County Communication 16-43, requiring that the construction of the project shall begin by March 18, 2018, and be completed by March 18, 2021.

Please note the Committee has received a response from Jupiter Holdings LLC to the questions posed by the Committee at its March 2, 2016 meeting, and that a response has been distributed to the Members.

I ask the Council's support for my motion. Thank you, Chair.

VICE-CHAIR GUZMAN: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak against the motion. I appreciate my colleague from the Wailuku district regarding his sentiment, regarding the continued delay of affordable housing projects. That is why we give them exemptions. That's why we give them a shorter way of getting the project into construction than normal.

You know, for me, Chairman, to ask me for this kind of consideration then, why wouldn't I want to look at adding back conditions of zoning that was exempted from this 201H process?

I'm like many of my other colleagues, including my own father, my predecessor who has been waiting for affordables. We called it hotel, or employee housing in the past. And now we, what, which was based on four hotel rooms for one affordable housing. That was the old formula under the old County Code. Now, we've adjusted it to be more of a workforce housing component.

We have approved countless projects for entitlement, with many having affordable housing conditions. Our problem is we need to force the construction of affordable housing. And, for me, it's time to draw the line. You know, my estimation is we're owed at least 4,000 affordable units by various developers that could help the local community at this time; our own family members, our own neighbor children. Where are they? We hear the talk, where's the walk? Now we have this one.

And, I was part of the Council that approved this five years ago. And, I'm tired of hearing only the talk. And, this County continues to get it up its, well, we are continuing to get it shortened by not providing the units. So, if this guy's not going to provide, what, is he trying to sell this project so he wants time so he doesn't have to build it and somebody else is going to? We don't give entitlements for somebody else's profit, not in affordable housing. We want it for the affordability of our own residents.

And, I find this distasteful to come before us asking for a extension. But, in my view they have shown no good faith effort to even move it to construction. So, what they have done in the five years that they promise to get it ready for construction? Wait, wait till we have this now before us in this type of manner in a discharge consideration? I find that insulting to this community. And, I really don't need this type of developers in this County. Thank you, Chairman.

VICE-CHAIR GUZMAN: Thank you, Mr. Hokama.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, you know, I totally understand what Mr. Hokama is saying, and I agree with most of what he's saying.

The only issue here is we have this letter, you know, and I kind of researched the company. It appears to be a, a legitimate company and a legitimate company that does affordable housing. So, they're on board with, if we give this extension that they'll start. You know, we've been promised, as Mr. Hokama says, we've been promised a lot of stuff before.

The only problem is, is if this, if this doesn't go through today then that land reverts back to, I think it's R-1 or R-2, which is fine. We could put resident but it's not, there, it's not, it was subdivided before all of the affordable housing agreements. So, I don't know that there are any affordables. And, if there are, it's only going to be four or five affordable homes in there.

So, you know, we've got this affordable housing crisis. I, I'm, have always been leaning towards no on the extension, but as one of our colleagues said in the Committee, you know, does this Council really support affordable housing. And, yea, we do. This is one last chance. So, I'm willing to give one last chance, but I would like to, as per what Ms. Cochran was talking about, amend, add an amendment.

SO I'D MOVE TO AMEND THE RESOLUTION TO ADD A "BE IT RESOLVED" NO. 2, THAT NO FURTHER TIME EXTENSIONS BE GRANTED, AND THEN RENUMBERING THE OTHER "BE IT RESOLVED'S".

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

VICE-CHAIR GUZMAN: There's a motion to amend by Mr. Couch, seconded by Mr. Victorino.

Any further discussion?

COUNCILMEMBER BAISA: Chair.

VICE-CHAIR GUZMAN: Mr. Hokama.

COUNCILMEMBER HOKAMA: Oh, I'm sorry.

COUNCILMEMBER BAISA: Go ahead.

VICE-CHAIR GUZMAN: Followed by Ms. Baisa.

COUNCILMEMBER HOKAMA: I would, can we have, maybe, Mr. Wong give just, maybe some comment to the Members this morning, Chairman, on, if that would be the appropriate language to meet the intent of what Mr. Couch and I, and others may want. Because, I want it very clear that we will not even accept an application for extension.

VICE-CHAIR GUZMAN: I will ask Mr. Wong, our Corporation Counsel, if the language as provided by Mr. Couch is satisfactory to meet the intent.

CORPORATION COUNSEL PATRICK WONG: Chair, if I may. Wordsmithing is an interesting thing to incorporate your body's intent. I think the language is helpful. But, I also agree with Mr. Hokama that even ruling out if the body intends, ruling out the option to apply for an extension can make it even clearer that the body would not entertain an application for a further extension. So, we might want to leave it to, if you don't mind, post wordsmithing so that we can clarify it, with, by incorporating your intent.

VICE-CHAIR GUZMAN: Okay. So, Members, it appears that we may need to go a little bit more specific. Are, is the intent of this body to disallow further application? Or, or on the other side, just no further time extension? Meaning that you're allowing something to apply and there could be discussion on whether it could happen or not. I guess we're going to have to be more specific. Would you like to take a recess to try to--

COUNCILMEMBER COUCH: Sure.

COUNCILMEMBER COCHRAN: Yes.

COUNCILMEMBER BAISA: Yes.

VICE-CHAIR GUZMAN: --work out the language? Members is that?

COUNCILMEMBER COCHRAN: Chair.

VICE-CHAIR GUZMAN: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Couch for presenting that. During our discussion, Mr. Ueoka was sitting in that seat, and I, you know, because the intent is one time only. So, that's what I said; one time only, just one time only extension. And, he's like, that would work.

VICE-CHAIR GUZMAN: Okay.

COUNCILMEMBER COCHRAN: And, it states that's it.

VICE-CHAIR GUZMAN: Okay, why don't, why don't we take a recess and try to work out some language that we can provide for our Council Services. Okay, we'll take a brief recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:00 A.M., AND WAS RECONVENED AT 10:09 A.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

VICE-CHAIR GUZMAN: Council meeting shall now reconvene.

I will turn the floor over to Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, if Members are okay with the words that I bring forward, then we can proceed.

"BE IT RESOLVED" NUMBER "2, THAT NO FURTHER TIME
EXTENSIONS SHALL BE CONSIDERED OR GRANTED."
THAT'S WHAT THE WORDS THAT THE, SEEMS TO BE
APPLICABLE.

COUNCILMEMBER VICTORINO: Sounds fine to me, Mr. Chair.

VICE-CHAIR GUZMAN: Okay. Is there any further discussion on this amendment?

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I will be supporting the amendment and the main motion. But, I want to explain why, because I'd like it on the record.

VICE-CHAIR GUZMAN: Okay.

COUNCILMEMBER BAISA: In the Committee, we had a very lively and heated discussion about this. And, I think there were many misgivings about, you know, the time and the extension, and why we would be even considering doing something like that. I think what is in the back of, what was in the back of my mind and still is, is this housing crisis we're in. If there is a chance that a 201H can possibly provide affordable housing for people, I want to give it that chance.

But, I too agree that this is one chance, and that we better have some performance here, otherwise, please do not come back. Thank you.

VICE-CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: Chair.

VICE-CHAIR GUZMAN: Any further discussion?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Although I wasn't at the Committee meeting, I've had the opportunity to review the tape. And, I thank my colleagues because they echoed all the sentiments that I had felt as far as this project was concerned.

I have been uneasy like I mentioned earlier from the beginning, and this only confirm that if they don't, if they don't act on this now, forget it. We're not going to be bothered ever considering it again, and let's move onto somebody else who can do affordable housing for the people of Maui County. Thank you, Mr. Chair.

VICE-CHAIR GUZMAN: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I thank Mr. Couch and Mr. Wong for helping to provide us with appropriate language for this amendment. I'll be speaking in support of this amendment.

I think one of the things that we may, as a Council, want to consider in future requests before the body for affordability is if they want exemptions from the Code, exemptions from conditions of zoning, I think it might be prudent on the County's part to impose some type of liquidated damages component for nonperformance. Because we are hindered by the parameters of the Charter on what we can impose as penalties and fines. But, I believe we should consider a percentage, possibly, of the total value of the exemptions and the waiver of conditions of zoning as potential liquidated damages against the developer for failure to perform by receiving all of these exemptions and approvals by the County.

So, I, I just share that as something we can maybe further ensure the construction of affordable units, Mr. Chairman. Thank you.

VICE-CHAIR GUZMAN: Any, anything further?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I'd just like to add, I, I really appreciate that consideration or idea. And, if it may be, certainly, I would like to look into it from my Committee. Thank you.

VICE-CHAIR GUZMAN: Very good.

Anything, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, also from five years ago, when this first came through this Council, I had my issues and concerns about the entire application in itself, and voted no then during Committee; shared, again, my issues and concerns. And, although we are addressing the one time only extension aspect, I'm still not in support.

So, it's, you know, I, I love all the comments that Councilmember Hokama mentioned. You know, I remember the, this room being full of people, unions and, and everyone, you know, banging our doors down to make this go because, hurry, hurry, rush, rush, rush, push this 201H through, fast-track it, fast-track it, well, hasn't been fast. And, now they're here asking for an extension. I do take offense too, as Mr. Hokama mentioned.

So, not happy. And, but, I thank Mr. Couch for at least making it somewhat palatable, but it's still not enough for me. Housing credits; another issue I was discussing in regards to this, and perhaps in conjunction with the neighbor, neighbor development.

So, that's my comments and I shall vote appropriately. Thank you, Chair.

VICE-CHAIR GUZMAN: Thank you. Before I call for the vote, I'd like to entertain a motion to waive Rule 19.

COUNCILMEMBER COUCH: Not yet.

VICE-CHAIR GUZMAN: You sure.

COUNCILMEMBER COUCH: We have to amend first.

VICE-CHAIR GUZMAN: Okay.

COUNCILMEMBER COUCH: You have to amend first.

VICE-CHAIR GUZMAN: Well, strike that.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carries for the amendment.

Going back to the primary motion.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I, I move to, I, we'll do that after. No, I guess we have to do it now.

I MOVE TO WAIVE RULE 19(C) OF THE COUNCIL RULES.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

VICE-CHAIR GUZMAN: There's a motion on the floor by Mr. Couch, seconded by Mr. Victorino.

Any further discussion?

Mr. Couch.

VICE-CHAIR GUZMAN: Members, just for our clarification, Rule 19(C) is "Amendment at final reading. A bill or resolution being considered for the final reading that is amended at a Council meeting shall not be acted upon at the same meeting as the amendment." The, the issue here, again, is the timing. And, so, if we want this to move forward, we have to waive Rule 19(C).

VICE-CHAIR GUZMAN: Thank you, Mr. Couch.

Anything further from the Members? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: Eight "ayes", no "noes", one "excused"; motion carries.

Going back to the main motion. Is there any further discussion? Seeing none, all those in favor say "aye".

COUNCILMEMBER CARROLL: Aye.

COUNCILMEMBER COUCH: Aye.

COUNCILMEMBER CRIVELLO: Aye.

VICE-CHAIR GUZMAN: All those opposed say "no".

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER COCHRAN: No.

VICE-CHAIR GUZMAN: A roll call.

COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: AYE.

COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: AYE.

COUNTY CLERK: Councilmember Elle Cochran.
COUNCILMEMBER COCHRAN: NO.
COUNTY CLERK: Councilmember Don Couch.
COUNCILMEMBER COUCH: AYE.
COUNTY CLERK: Councilmember Stacy Crivello.
COUNCILMEMBER CRIVELLO: AYE.
COUNTY CLERK: Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA: NO.
COUNTY CLERK: Councilmember Pro Temp Victorino.
COUNCILMEMBER VICTORINO: AYE, WITH RESERVATIONS.
COUNTY CLERK: Council Chair Mike White.
VICE-CHAIR GUZMAN: EXCUSED.
COUNTY CLERK: Council Vice-Chair Don Guzman.
VICE-CHAIR GUZMAN: AYE.

AYES: COUNCILMEMBERS BAISA, CARROLL,
COUCH, CRIVELLO, VICTORINO, AND
VICE-CHAIR GUZMAN.

NOES: COUNCILMEMBERS COCHRAN AND
HOKAMA.

EXCUSED: CHAIR WHITE.

COUNTY CLERK: Mr. Chair, you have six "ayes", two "noes", and one "excused".

VICE-CHAIR GUZMAN: Motion carries. Thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, RESOLUTION 16-32.

Proceeding with ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 17 (2016)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS
TO APPENDIX B, REVENUES - FEES, RATES, ASSESSMENTS AND TAXES,
GENERAL FUND, CHARGES FOR CURRENT SERVICES,
FEES - DISABLED PERSONS PARKING PLACARDS

VICE-CHAIR GUZMAN: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, if, with no objections from the Members, I would request that the Clerk bring up Bill 18 and 19 also, since they all relate to the same subject.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 18 (2016)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE -
SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS,
DEPARTMENT OF FINANCE
(STATE DISABILITY AND COMMUNICATIONS
ACCESS BOARD (DCAB) PROGRAM)

ORDINANCE NO. _____
BILL NO. 19 (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.48,
MAUI COUNTY CODE, RELATING TO STOPPING, STANDING, AND PARKING

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Mr. Chairman.

I MOVE THAT BILLS NO. 17, 18, and 19 OF 2016 PASS
SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: It's a motion by Mr. Hokama, seconded by Mr. Victorino.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carries.
Thank you.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 20 (2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 2, MAUI COUNTY CODE, TO
ESTABLISH THE MAUI METROPOLITAN PLANNING ORGANIZATION

VICE-CHAIR GUZMAN: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Chairman, I respect, respectfully ask to
take up Bills 20 and 21 together as they both pertain to the formation of the MPO.

VICE-CHAIR GUZMAN: Any objections?

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Okay.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 21 (2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF HAWAII TO FULFILL FEDERAL AND STATE
TRANSPORTATION PLANNING REQUIREMENTS RELATING TO
THE MAUI METROPOLITAN PLANNING ORGANIZATION

VICE-CHAIR GUZMAN: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO PASS BILLS 20 AND 21 (2016) ON SECOND AND
FINAL READING.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: We have a motion on the floor from Ms. Crivello, seconded by Ms. Baisa.

Any further discussion?

COUNCILMEMBER CRIVELLO: Thank you. Yes, Chair. Your Housing, Human Services, and Transportation Committee met on January 7, 2016, January 21, 2016, and February 4, 2016, to consider a proposed bill to establish a Metropolitan Planning Organization as mandated by Federal government.

The 2010 U.S. Census determined that the geographic area of Kahului, Wailuku, Paia, exceeded a population threshold of 50,000, making it an "urbanized area", requiring an MPO designation.

The County of Maui anticipates receiving over 1.6, \$1.167 million for the Maui MPO for Federal Fiscal Years 2013 to 2015; approximately \$400,000 a year for its operation with a ten percent match each from the State and County.

Once the MPO is created, our Department of Transportation would gain over \$5 million for the past three Federal Fiscal Years, however, if the MPO is not created, the County stands to lose over \$200 million in Federal funding for County projects.

I ask for the Council's full support.

VICE-CHAIR GUZMAN: Thank you.

Any further discussion?

Mr. Hokama, followed by Mr. Couch.

COUNCILMEMBER HOKAMA: Chairman, thank you. I, I speak in support of the motion this morning, with reservations, Chairman. I share my concerns to Chair Crivello and her Committee regarding some of my concerns with the establishment of the proposal as well as the impact of the proposal on various components of our County.

I can, I will state that in my direct conversations in a face-to-face meeting with the Secretary of Transportation, Mr. Foxx, I mentioned the uniqueness of Hawaii. And he is one who understands counties a lot better than most Federal bureaucrats, Mr. Chairman, in that he appreciated the kinds of concerns that was raised; that as islands, we need to be viewed slightly differently than a part of a contiguous 48 States that the MPO's have been normally dealing with.

The Secretary said that he was open to consider allowing the County to have some flexibility. And, we agreed that, you know, the circle, there needs to be a circle. The circle will not disappear. I understand that, Mr. Chairman. But, my point to the Secretary was that the circle should allow the local municipalities, like this County, some flexibility in realigning the circle so it can best meet our general plan and community plan needs and directives. And, to honor some of those community decisions about retaining a sense of rural or country ambiance that they choose to have, and that's why they choose to live where they reside in, Mr. Chairman.

The Secretary is, was sensitive to that. He has assigned one of his chief staffs to continue to work with myself and this County to see if we can make reasonable and appropriate adjustments to the circle to take care of those concerns of minimizing negative impacts from this potential designation.

He did, though, acknowledge that, like many agencies, they are in many different strong vertical cells. And, yes, he agrees that there should be better communication, just like we agreed we can have better communication within our inter-departments.

And that he would also state for a fact that that designation should not impact this County's ability regarding Department of Agriculture and Department of HUD for CDBG considerations. But, like all smart bureaucrats, that's their statement. Even from HUD that's their statement. This designation should not impact the County of Maui, but no one really wants to put it in black and white, Chairman.

Cause, that's my concern. What happens when there's a change of person and a potential change of attitude? There is nothing in a record to protect this County from saying this was the understanding that we moved forward on. It is something we've dealt in, even in your Committee, Mr. Chairman, under Committee of the Whole issues.

So, I just share that that I think the willingness of the U.S. DOT to continue to, willing to talk to this County to improve the designation. It's a positive step, and I therefore will support the motion before the body this morning. Thank you.

VICE-CHAIR GUZMAN: Thank you, Mr. Hokama. And, thank you also for all your hard work in Washington.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I too want to thank Mr. Hokama for pursuing that, you know, in Washington DC. I too have those same concerns and have always expressed them.

And, plus, all the other concerns and some of the other departments that it has. It's unfortunate that we're kind of got a hammer over our head of, you know, multiple millions of dollars if we don't do this. That being said, I, I will support this with reservations.

The one good thing that may come out of this is that with the MPO, that MPO has better say as to what projects on Maui will be done. Because, right now, the State is poo-pooing some projects because it's going to just be way too expensive so they're throwing their hands up. The MPO can say, well that's too bad State, this is what the MPO requires, and so we may have some better say with this. So, that's the one shining light in this. So, with that, I will be supporting with reservations. Thank you.

VICE-CHAIR GUZMAN: Any further comments?

Ms. Baisa.

COUNCILMEMBER BAISA: No, but I'd like to express my support. I, I understand the issues and I share all of the concerns that Mr. Hokama and others have, but I'd like to see this move forward. Thank you.

VICE-CHAIR GUZMAN: Okay. Anything further?

Without, Mr. Hokama, Mr. Victorino--

COUNCILMEMBER VICTORINO: Thank you, Chair. And, I'll echo the same sentiments as my colleagues. I know Mr. Hokama has worked very hard, and even my trips to DC and talking to some of our Congressional people. They had concerns in, in how these things are determined for island States like ours which, you know, have very limited area, and then the combinations that are put together. But, there may be some benefit and so looking at the benefits and looking at the, like the pros and cons of this whole issue, I too will support it, and hope to see positive results for this County as far as transportation is concerned, Mr. Chair. Thank you.

VICE-CHAIR GUZMAN: Thank you, Mr. Victorino.

Any further? Okay, so all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carried.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 22 (2016)

A BILL FOR AN ORDINANCE AMENDING THE TRAFFIC CODE OF THE
COUNTY OF MAUI TO PROHIBIT PARKING ON PORTIONS OF KAHAWAI
STREET, WAILUKU, MAUI, HAWAII

VICE-CHAIR GUZMAN: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO PASS BILL NO. 22 (2016) ON SECOND AND
FINAL READING.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

VICE-CHAIR GUZMAN: We have a motion on the floor by Ms. Cochran, seconded by Mr. Victorino.

Further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, very much. And, the purpose of this proposed bill is to prohibit parking on the south side of Kahawai Street, between Market Street and Makua Street, where indicated by signs to eliminate unsafe traffic conditions.

The Public Works Commission unanimously recommended approval of the proposed bill at its meeting of December 16, 2015.

The Director of Public Works indicated most of Kahawai Street has insufficient right-of-way widths for, to safety accommodate, safely accommodate parking. And, the Department estimates seven or eight parking stalls could be retained should the bill be passed, subject to road restriping.

I therefore ask for this Council's support of this bill. Thank you, Chair.

VICE-CHAIR GUZMAN: Thank you, Ms. Cochran.

Anything further?

COUNCILMEMBER VICTORINO: Mr. Chair.

VICE-CHAIR GUZMAN: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. And, I want to thank the Chair of the Committee, Ms. Cochran, for bringing this finally forward. It's been something we've worked on for almost four years. And, it was also predicated on the development of the affordable housing that was built along that same street. So, once that had been completed, then we had a real good estimation on how much room we would have as far as the width of the road.

And, I want to thank the Department for their hard work. I've been there, and now the residents can rest assure that we will have designated parking where applicable and no parking where not. So, I want to thank the Chair and the Committee for approving this. And, I hope today everyone will support this ordinance. Thank you, Mr. Chair.

VICE-CHAIR GUZMAN: Thank you, Mr. Victorino.

Any further discussion? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,
COCHRAN, COUCH, CRIVELLO, HOKAMA,
VICTORINO, AND VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: NONE.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have eight "ayes", no "noes", one "excused"; motion carries.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 23 (2016)

A BILL FOR AN ORDINANCE GRANTING MAUI DRAGON FRUIT FARM LLC
A CONDITIONAL PERMIT TO CONDUCT AGRICULTURAL RELATED
ACTIVITIES, SELL NON-AGRICULTURAL RELATED ITEMS AND
AGRICULTURAL PRODUCTS NOT GROWN ON THE PROPERTY, AND TO
CONDUCT CERTAIN SPECIAL EVENTS WITHIN THE COUNTY AGRICULTURAL
DISTRICT, FOR PROPERTY SITUATED AT 833 PUNAKEA LOOP,
LAHAINA, MAUI, HAWAII

VICE-CHAIR GUZMAN: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 23 (2016) ON SECOND AND FINAL
READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

VICE-CHAIR GUZMAN: We have a motion on the floor by Mr. Carroll, seconded by
Mr. Victorino.

Any further discussion?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Bill 23 (2016) would grant a request
from Lawrence and Crystal Schmitt of Maui Dragon Fruit Farm LLC for a two-year
Conditional Permit to conduct agricultural-related activities, sell non-agricultural
related items and agricultural products not grown on the property, and conduct
special events on a three-acre portion of the property within the County Agricultural
District at 83030, 8, excuse me, 833 Punakea Loop, Lahaina, Maui, Hawaii.

VICE-CHAIR GUZMAN: Thank you, thank you, Mr. Carroll.

Any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, this is another item during Committee discussion, shared my thoughts and feelings. Again, my "no" vote is in no reflection of, on the people, the applicants themselves. And, thank them for their time and efforts in allowing us to go to their property for site inspection, and to see how this is all going to play out.

But, I'm just being consistent with earlier rulings on my behalf in special events, weddings per se, in this neighborhood, and will continue to stand by that. So, just wanted to make that point at this time. Thank you, Chair.

VICE-CHAIR GUZMAN: Thank you, Ms. Cochran.

Anything further from the Members? Seeing none, all those in favor say "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COUCH,
CRIVELLO, HOKAMA, VICTORINO, AND
VICE-CHAIR GUZMAN.

VICE-CHAIR GUZMAN: All those opposed say "no".

NOES: COUNCILMEMBER COCHRAN.

EXCUSED: CHAIR WHITE.

VICE-CHAIR GUZMAN: We have seven "ayes", one "no", and one "excused"; motion carries.

Members, as we go into this last item, without objections, I would like to step down as Chair and join you on the floor so that I may act on behalf of my Committee, EAR, as the Chair, and, and engage in the discussion.

So, without objections, I would like to step down and have our Pro Temp, Mr. Victorino, take over as Chair.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Thank you very much. I will take a short recess at the call of the Chair. Thank you.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:32 A.M., AND WAS RECONVENED AT 10:33 A.M., WITH ALL MEMBERS PRESENT, EXCEPT CHAIR WHITE, EXCUSED.)

COUNCILMEMBER VICTORINO: The regular Council meeting of March 4, 2016, will reconvene.

Mr. Clerk.

COUNTY CLERK: Thank you, Mr. Chair.

ORDINANCE NO. _____
BILL NO. 24 (2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL
RESOURCES, RELATIVE TO THE MAINTENANCE AND USE OF THE
COMPLETED PHASES OF THE CENTRAL MAUI REGIONAL SPORTS COMPLEX

COUNCILMEMBER VICTORINO: Councilmember Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO PASS BILL 24 (2016) ON SECOND AND FINAL
READING.

COUNCILMEMBER HOKAMA:

SECOND.

COUNCILMEMBER VICTORINO: It was moved by Ms. Crivello, and seconded by Mr. Hokama, for the passage on second and final reading of Bill 24.

Any discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Bill 24 would authorize the Mayor to enter into a Right-of-Entry permit with the State for maintenance and use of the completed phases of the Central Maui Regional Sports Complex.

At first reading, the Council was informed by the Corporation Counsel that the County would not agree to any extensions of the Right-of-Entry permit which is set to expire on June 30, 2016, or when the Memorandum of Agreement is executed between the land, Department of Land and Natural Resources and the County of Maui, Department of Parks and Recreation, whichever occurs sooner.

In addition, the Corporation Counsel advised that the proposed Memorandum of Agreement will come before the Council along with a proposed bill to consider approval of the MOA as an intergovernmental agreement pursuant to Chapter 2.20, Maui County Code.

Passage of Bill 24 today would allow the County the ability to enter onto the completed phases of the State-owned park complex in time for girls softball activities already scheduled to commence this month.

Thank you, Chair. And, I ask for my colleagues support.

COUNCILMEMBER VICTORINO: Thank you.

Any further discussion?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. And, I apologize to the Members. I, I was not here at the last Council meeting, the special Council meeting. I was actually in Portland. I did attend a, what you call a ag food hub, and the operations that the ag food hub as well as my daughter's golf tournament.

But, before I had left on Wednesday evening, I got a call from the Parks Director informing me of the Right-of-Entry proposal. I did have an opportunity to read it briefly, and I conveyed my concerns to the Director of Parks, concerning somewhat of avoiding or bypassing the Committee for vetting. And, in the past I haven't done that. I usually vet everything through my Committee; even the tennis backboards, something as minor as that.

And, so I did relay to him that I, I, I would vote no if I were present, as well as some of the language that I perceive as making a, somewhat implying a commitment in the

Right-of-Entry Agreement itself, by mentioning the MOA, the mutual agreement, it almost as well as commits us to execute.

In the past, I've seen other right-of-entry's. They don't need to state a rationale or a justification to have the right-of-entry. So, I am concerned with having the language of committing somewhat of the Council to an MOA, which we haven't yet had an opportunity to vet it. That, that's one of my concerns.

The other concerns was the right-of-entry itself. I, I don't recall ever this Council or the time I've spent on this Council in having to approve a right-of-entry. So, I went to Council Services and I requested their background knowledge or their experience in their tenures. And, according to Mr. Raatz, and throughout his years of experience, there hasn't been a right-of-entry that has been brought forth to the Council for approval.

So, that's one of my questions is why this right-of-entry, is why do we have to approve it on, on such a high level scrutinized subject matter when the whole of Maui Lani residents have sued the State on this matter and have brought it to the courts and, and to the appellate system, and it's been in the newspaper? It's a very highly, highly charged subject matter. So, why are we dealing with this right-of-entry when we've never had to approve in the past?

I would hope that this isn't a shield for the Administration, for us as the Council to take the heat on this without it being vetted. There's such scrutiny as to the process the State went through that triggered a lawsuit. That here we are as the Council, are we now circumventing our own process to accommodate the State? I mean, we, if this was something minor, I wouldn't be so cautious. But, it's a highly charged subject matter and we should be dotting our "i's" and crossing our "t's".

And, and, I'm not against the youth, Chair. I have my boys that play baseball. I love the, I love the facilities, but I care about the integrity of this Council. I don't want to be held under the fire because the Mayor doesn't want to execute a right-of-entry. There's nothing in the law, in an ordinance, or our Charter that prevents the Mayor from going forward with this right-of-entry without our approval.

And, that's what I wanted to verify with Corporation Counsel is they could go forward without our approval on this right-of-entry cause they've, they've done it in the past many, many times. And, like I've said, we haven't had a right-of-entry before us in the past to approve.

My other question is, if the MOA, I know the Corporation Counsel has stated on the record that we will have an opportunity to approve the MOA later on. But, there's

nothing, like you said in our last subject matter, there's nothing in writing. They could change their mind. Something, they could be caught in a deadline and the Administration can go ahead and execute. There's nothing that would prevent them from not having to come to the Council to get approval; that's my other concern.

And my, and last but not least, I don't know the status of the litigation right now. And, if we had an opportunity to bring this to the Committee, maybe we could have gone into executive session to find out the status of what's going on with the lawsuit. Is it, I know it went to appeals and then is there now, you know, is there a . . . to go the Supreme Court? I don't know. So, are we inheriting, are we going to inherit a lawsuit?

So, these are some questions that I have in, I support, you know the softball leagues. I know that they have a deadline, you know, March 12 they want to get the ceremonies out and going, and that's why we're put under the gun. But, if you balance the situation, ceremony of the, of the softball league versus what we've done to circumvent our own system, our own process, and we're accommodating it? Wow, Chair, this is a high level. All eyes are on us. Please, let's not circumvent our own system to accommodate the State who's been questioned on how to handle the whole regional park.

You know, the, the best that we can do is follow our own system and it will get done. If not, the Mayor, have the Mayor sign off on the entry. He's done it in the past. Just like the, the, the landfill site with the Anaergia. We didn't have to sign off on that to approve it. He can execute that.

So, anyways, these are the questions I have. And, nothing against the regional park. It's all about that, you know, finding out some answers which we could have done in, in Committee. And, so we're left with this because somehow there's some urgency and I can't figure out the urgency, you know.

COUNCILMEMBER VICTORINO: Okay.

VICE-CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: Thank you, Mr. Guzman.

And, I guess the, the, you've heard the questions, Mr. Wong. And, I will turn to you to answer them. We also have the Director of Parks and Recreation, Ka'ala Buenconsejo, that is here to also maybe assist with some of the answers or some of the questions you have, Mr.--

But, before I start, is there anyone else that has any other question for Corporation Counsel? Okay, seeing none, then I'll have him answer those. Cause, if you had, then I'd like to just get them done one by one and, and move on.

So, Mr. Wong, it is your, your floor now.

CORPORATION COUNSEL: Thank you, Chair.

Member Guzman, if I overlook any of the questions that you may have, please redirect me and ask me again. I'll try to handle them as you raised them.

With respect to the right-of-entry or the necessity for this body to act, if you take a look at the right-of-entry, it does ask that there be an expenditure of monies, County monies to maintain and operate the park. In order for us to expend monies, we, we're required to obtain this body's approval. A right-of-entry in and of itself without expenditure of money could conceptually be done by execution of Mayor. This--

VICE-CHAIR GUZMAN: Chair. Just so, so on, on that portion of it, if, if you're saying the right-of-entry triggers somewhat of a commitment to appropriations, then isn't it not committing us, already, prior to the MOA?

CORPORATION COUNSEL: So, if I may--

VICE-CHAIR GUZMAN: Yea.

COUNCILMEMBER VICTORINO: Yea, go ahead Mr. Wong.

CORPORATION COUNSEL: The right-of-entry has an expiration date and it shall not be extended. The expenditure of money is from the present, once the right-of-entry is approved by this body, until June 30. And, the monies are expended from the Parks Department in their current budget. There will be no budget amendment. It's their current Fiscal Year '16 Budget that can accommodate the maintenance issues.

If this body does not approve the MOA, then the right-of-entry, by its own language, expires on June 30. It's either the MOA continues it, or it expires on its own terms. There's no extension of liability, there's no extension of responsibility. The document itself does not forestall this body's opportunity to review the MOA. It does not commit this body to agreeing to the MOA. All it does is provides a right-of-entry and an expenditure of current Fiscal Year '16 funds that the Parks does have in order to accommodate the operations and maintenance, and the opening of the event.

I want to move to the next area of concern, and that is--

VICE-CHAIR GUZMAN: Can, can I ask a follow-up question on that particular item?

CORPORATION COUNSEL: Sure.

VICE-CHAIR GUZMAN: So, then if it doesn't have any effect to, with the MOA, committing us to an MOA, then why do we have the language of the MOA in it? Like some, most of the right-of-entry's, and I've only dealt with residential right-of-entry's in my practice, we didn't really need to even have any justification or rationale as to why we grant a right-of-entry. So, it could just be a blanket right-of-entry period without any other sort of additional language. So, if that is the case, why do we include the MOA language in there?

CORPORATION COUNSEL: If I may Chair.

COUNCILMEMBER VICTORINO: Go ahead.

CORPORATION COUNSEL: The circumstances of this particular request, the Department of the Corporation Counsel and Department of Parks has been actively negotiating with the State of Hawaii in trying to facilitate a mechanism to allow the Parks to expend funds, and maintain the, the park for its opening.

The Right-of-Entry and the MOA, in its proposed draft form, were submitted to the Department of the Attorney General for their review. And, we did it that way because we didn't know which document the Attorney General and the State would be immovable to. They also suggested, if I may, that we move this project under a special use permit; all of which needed vetting through their governing body.

We tried to have the documents, depending on which one would pass the State, have very similar language in order to accommodate the acquisition or the turnover of the park to the Department of Parks from the State. The language in both, what we did was basically capture some of the language from the MOA and plugged it into the right-of-entry because we didn't know which one or both that the State would pass.

So the timing was difficult. The effort, I think, was to try to give them as many alternatives as possible to consider. And, we didn't know which one they would approve. My understanding is that the Chair of the Department of Land and Natural Resources has currently the authority to negotiate both, as their Board has approved the language for both. What we have is, what we presented to you is, during that time, the right-of-entry for us made more sense. So, it was a matter of timing, a matter of taking the documents that we had and presenting it to this body. The easiest one, the least complicated one to get pass this body was the right-of-entry.

It did accomplish what the Parks, Department of Parks needed, and that is your approval to expend County funds. It did accomplish what they needed in being able to acquire at least Phase 1 up until June 30. So, the automatic termination language in the right-of-entry holds true. Our agreement with this body as your legal counsel not to extend beyond June 30 also holds true. The MOA, Memorandum of Agreement with the State requires your approval because it is an intergovernmental agreement.

And our Code requires the Administration to get your authorization prior to signing that document. You will be allowed the opportunity to review all the terms and conditions of the MOA whether its before this body or your Committee. It will be submitted with sufficient time, such that your concerns of vetting the topics before your Committee can and should be properly held in your Committee.

We have no intentions of re-enacting this rush scenario. And, we've only done it for the right-of-entry because the deadline for the opening day is upon us. In order for us to get everything in place and get Department of Parks ready to be able to take over areas of Phase 1, we had to do it in this fashion.

VICE-CHAIR GUZMAN: Okay. Can I have a question? Could the right-of-entry be signed by the Mayor without our approval? Because there's other right-of-entry's that have been signed by the Mayor with a, and, and this is, you know, basically the first that we've seen. And, according to Mr. Raatz, we haven't received right-of-entry approvals before. I don't know.

CORPORATION COUNSEL: It's, it's my recommendation that when we expend County funds, that we get this body's approval regardless of whether or not the right-of-entry can or cannot be executed without your approval. So, it's in abundance of caution that I bring it to you for consideration.

I would prefer that the Mayor not execute a right-of-entry if there is an expenditure of funds without your approval.

VICE-CHAIR GUZMAN: And, then that's wherein lies the language, Chair, is that it is committing us, you know, even though, you know, Mr. Wong is saying it doesn't. Well, we wouldn't, it wouldn't be before us unless there was some type of appropriation involved in it. So, it's kind of like a "Catch-22", you know.

You're presenting it, I mean, the Administration wants to present it to us although they haven't done so with other right-of-entry's. But, they're doing so now because there's language in there that says that there money, that there's monies that we

have to appropriate. So, does that not commit us to something that we haven't really vetted through in the future, the MOA?

I'm concerned, I, and I can't get over that phase of it. But, I'd like to have my other questions answered as well if we may. Thank you, Chair.

COUNCILMEMBER VICTORINO: If we may, yea, please Mr. Guzman. Okay, go ahead Mr. Wong.

COUNCILMEMBER COCHRAN: Chair.

COUNCILMEMBER VICTORINO: What.

COUNCILMEMBER COCHRAN: Sorry, Chair. I actually have a follow-up though, in some comments that Mr. Wong and where Mr.--

COUNCILMEMBER VICTORINO: I'll, I'll only entertain questions. I will save comments till later because--

COUNCILMEMBER COCHRAN: It's not comments.

COUNCILMEMBER VICTORINO: I would like questions--

COUNCILMEMBER COCHRAN: It's a question.

COUNCILMEMBER VICTORINO: --so that we can move along, okay, please.

COUNCILMEMBER COCHRAN: Yea, this is a question.

COUNCILMEMBER VICTORINO: All right.

COUNCILMEMBER COCHRAN: And, it's in relation to the discussion being had by Councilmember--

COUNCILMEMBER VICTORINO: Go ahead, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. So, Mr. Wong, you were stating in your comments in regards to once this is done, this kind of all dies and goes away in a sense, and then the MOA comes up. I mean, this, this right-of-entry, right? It says "shall remain in effect until June 30 or a MOA is executed between" so, and so on.

But, in, but in this language, items 3 and 4, the very ending it says "this provision shall survive the expiration or earlier termination of this ROE". So, it's telling me within this document, so there seems to be a conflict in my mind. I'm not an attorney, but I'm reading the sentences. So, regardless if all this goes away, we're only using it for this particular time in order to start these opening ceremonies. The sentence is saying, even if we, it expires or we terminate it, the, this language continues to be in effect.

COUNCILMEMBER VICTORINO: Mr. Wong.

CORPORATION COUNSEL: Chair, Member Cochran, I believe you're reading from page two--

COUNCILMEMBER COCHRAN: Yes.

CORPORATION COUNSEL: --paragraph three, last sentence of the second full paragraph.

COUNCILMEMBER COCHRAN: Yes.

CORPORATION COUNSEL: Where it reads, "this provision shall survive the expiration or early termination of this right-of-entry". Is that correct?

COUNCILMEMBER COCHRAN: Yes.

CORPORATION COUNSEL: Yea, that provision, if you read the paragraph that it's attached to, deals with the issue of damages for injury, injuries caused by officers or employees and agents, in the course of their employment to the extent that the County's liability for such damage or injury has been determined. Essentially, that provision is where we provide coverage for our own employees and their own negligence.

So, in the event an accident occurs and it's as a result of negligent actions by a County employee, we would be responsible for it assuming it meets the requirements of the law that's presented. I'm trying to not commit you to a proposed event that may occur. But, essentially, this is no different than any other agreement that the County enters into where we take responsibility for our own actions.

VICE-CHAIR GUZMAN: Does that include the public?

COUNCILMEMBER COCHRAN: And, then item 4 also states similar language at the end of its, item 4.

CORPORATION COUNSEL: Yea, item 4 is relevant to, if you look at the paragraph that you're referencing, the second full paragraph in item 4.

COUNCILMEMBER COCHRAN: Yes.

CORPORATION COUNSEL: Even the context of paragraph 4 itself, it deals with the existence of hazardous material that may be found on the premise. And, in the event there are hazardous materials that are found, and I'm going to offer to you that I don't know the current circumstance of it, but the State would had to have had various testing done before making it available to us.

We're assuming any discovery of hazardous materials on the site, for example, if it was a dumpsite and we discovered that there's hazardous materials on there, then we're responsible for that beyond the life of this right-of-entry, if we created the hazardous material being disposed of on the site.

COUNCILMEMBER COCHRAN: So.

CORPORATION COUNSEL: So, you're correct, that those two areas do reference life beyond the termination of the right-of-entry.

COUNCILMEMBER COCHRAN: Okay. And, these are like kind of boilerplate verbiage or language--

CORPORATION COUNSEL: Yes.

COUNCILMEMBER COCHRAN: --normally, typically it's there?

CORPORATION COUNSEL: Yes.

COUNCILMEMBER COCHRAN: Okay. Thank you, Chair. That was my questioning, thank you.

COUNCILMEMBER VICTORINO: Thank you.

Mr. Couch, followed by Ms. Baisa.

COUNCILMEMBER COUCH: Is, okay, and a clarification of maybe of what I heard. But, I thought I heard Mr. Wong say this isn't going to be extended at all, it can't be. But, if that is the case, then there's language in here that needs to change because it certainly says it can be extended, both in the ordinance and the right-of-entry.

CORPORATION COUNSEL: Correct. And, and the extension is by mutual agreement of the parties in writing. And, we've assured this body that the Administration will not mutually agree, absent this body's authorization to do so.

COUNCILMEMBER COUCH: Okay.

COUNCILMEMBER VICTORINO: Are you satisfied with that, Mr. Couch?

COUNCILMEMBER COUCH: Yup, yup.

COUNCILMEMBER VICTORINO: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: My question was answered. Thank you.

COUNCILMEMBER VICTORINO: Your question was answered, okay.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, just one quick comment. One of the reasons why we haven't had many, if rare, it's a rarity for this type of review by this body is because normally on our, on projects, it's our land already. We're not, we don't do right-of-entry's on our own property. This is a unique project proposition because it is not, it is State's property, and for us to enter State property to protect our representatives is one of the reasons why we look at a right-of-entry.

This is a unique way of doing a project. And, and in the past, yes, there would be no right-of-entry's because, again, projects the County does is on County jurisdiction. And, that is why you never would have this type of thing before Council on those type of projects, Chairman. Thank you.

COUNCILMEMBER VICTORINO: And, I also understand that because there is expenditures of, of funds, that's what also predicated us coming here today where the Mayor, in other circumstances when there was no funding necessary, could agree to, or could sign a MOE.

COUNCILMEMBER HOKAMA: That is correct, Chairman. As well as Mr. Wong, in his confirmation comments to the Council or, or the appropriate policy committee that was yours I believe, indicated how he would operate as the chief legal counsel. And, he mentioned that from even his first term, he would take a conservative approach and bring issues before the body to get the Council's approval prior to moving

forward on the areas of sensitivity or areas that may have some jurisdictional concerns.

And, so I appreciate that the Council is bringing forth this financial matter before the body because that is something that the body wanted out of Mr. Wong prior to confirmation as Corporation Counsel.

COUNCILMEMBER VICTORINO: Thank you, Mr. Hokama.

Mr. Wong, would you like to continue answering? I think there's a few more questions that need to be answered. If you don't mind ladies and gentlemen, we'll continue that line.

CORPORATION COUNSEL: Yes, Chair.

VICE-CHAIR GUZMAN: Chair, can I just say one thing before Mr. Wong continues. I mean, I think the issue with me, with the right-of-entry, as relates to what Mr. Hokama just stated was not the fact that the right of, I mean, of course, the fact that its before us, but also it didn't go through the regular process in a very heated and high scrutinized matter.

And so, I'm very cautious when it, you know, when we are skipping the Committee and we're going straight into Council on an item that we're not use to receiving. So, wouldn't we therefore go back to our, the, the normal course of doing the process if it's something that we don't really receive, and so it's more special? So, even more so we should be following our process. But, that's just my point.

And, Mr. Wong, if you could continue please. Thank you.

COUNCILMEMBER VICTORINO: Yea and I, I think you've made that point. And, I think we understand what you're trying to elaborate on. However, I'd like Mr. Wong to finish up the other questions if I may.

Mr. Wong, go ahead.

CORPORATION COUNSEL: Thank you, Chair. I believe the, there's questions about the status of the litigated life of this project. And, I can offer comments in open session based on my review of the docket. And, I'll offer this to the body, that the State is in active litigation along with the County. We too were sued in the matter. And, it's entitled, I believe the, the name of the entitlement is "Maui Lani Neighbors v. State of Hawaii and County of Maui".

Currently, the matter is pending before the Intermediate Court of Appeals. I can refer you to the docket itself. What's significant for your current consideration is the plaintiffs efforts to secure a, either a temporary restraining order or a permanent injunction failed before the Circuit Court. And there are no current orders in place prohibiting any action to be taken or development to occur with respect to this park.

There is no order currently prohibiting the State from moving forward. Both effort by the plaintiffs failed before Judge Cahill in September of 2014. And, later in that docket, the matter has been appealed. I would prefer not get into the particular issues on appeal, and the County's positions in that appeal.

I can assure this body that the MOA will not assume responsibility for the State's role in the appeal by the County. That's a sticking point that I assure you, I have discussed that we will not do. We will fortify our own defenses as it relates to the County of Maui actions. We will not assume the legal responsibility for the State's actions. It is still their responsibility to defend their actions. How it plays out in appeal, I can't predict that for you.

Currently, there is no request or posturing by the plaintiffs for any settlement. So, it has not been proposed to be raised in the Committee of the Whole. In the event such a thing does exist, it will be presented to the Committee of the Whole, which is the proper Committee for litigative matters. I only speak to it because it's raised in the context of questions that Member Guzman raised.

If there's any further questions with regard to the litigation, I would request a motion for executive session. And, I will also call the Deputies that I've assigned to defend the County's interest in that litigated matter to appear.

COUNCILMEMBER VICTORINO: And, I think there, there was one more question right, Mr. Guzman? Or was that your list of questions? Cause now, you got to put in a --

VICE-CHAIR GUZMAN: I, I believe, I think, I think he's answered every, all of my questions.

COUNCILMEMBER VICTORINO: Concerns and questions.

VICE-CHAIR GUZMAN: I think he even, he incorporated the urgency because of the ceremony that's going to be, the opening ceremony next week that, and I wanted to verify that. And the litigation portion, I, I wasn't sure whether it was in appeal, the ICA, Intermediate Court of Appeals, so he's verified that as well.

I, I'm a little bit hesitant because I, I'm not sure what that means for the County when we're, you know, are we assuming the liabilities? But, apparently Mr. Wong is saying no. This right-of-entry, I, I, I really do not like the language with the MOA language in there. If they could strike all of that language, the MOA language, I would be more comfortable, and I would probably vote yes. But, because it has the MOA language in there, I'm just looking at a straight right-of-entry and an expiration date. You know, none of this, like, incorporating and bringing appropriations and, you know, some kind of implied appropriations in there.

So, I, I'm, gosh this is hard, Chair, and I wish I had more opportunity to have vetted it through, and maybe calling some people for a panel. But, I'm very disappointed with the State, as I did listen and read the minutes of the last meeting, and Mr. Hokama had some really good points, you know. For them to put us in this hot seat, I know, I have kids that are in baseball, we know. You, you were in base for many years. We know when opening ceremony is. Its two or three months in advance. Why, why are we getting this one week before the ceremony? It, it's disturbing. It's disturbing.

COUNCILMEMBER VICTORINO: Maybe what I should do at this point is call upon the Director of Parks and Recreation, Mr. Buenconsejo, to put some light on why the urgency. If, you may be able to share that with us, unless you want to add something else, Mr. Wong? No, not at this time?

CORPORATION COUNSEL: No. Thank you, Chair.

COUNCILMEMBER VICTORINO: Okay, go ahead, Mr. Buenconsejo.

DIRECTOR OF PARKS AND RECREATION KA'ALA BUENCONSEJO: Chair, thank you, Chair, Council. Again, the Department understands, you know, with the special circumstance that was asked upon this body to assist with the moving of the ROE.

We appreciate the cooperation and the working with Corporation Counsel, and again, hearing it out on Friday and vetting through all of the concerns that everyone did have.

Regarding the, the timeframe of the actual opening ceremonies, not necessarily ceremony, it's actually the opening season. It is for the whole season, they will be playing on that field.

You know, we did start the MOA discussion back in late last year, August, September-ish, is when we started rolling on with the MOA, with the State going back and forth and vetting through the issues as far as responsibility. With the timeframe, again, with, with the delay of Departments. With getting the Attorney General's Office

involved, you know, it started off as just a DLNR issue and then all of a sudden it snowballed effect up to Attorney General level where we were meeting with five attorneys from the State side, three attorneys from our County's side, Corporation Counsel.

Adding with those delays, it came into . . . with, with what the State kind of going black for a little while in a sense of figuring out what roles they were going to play, and then us finding out, you know, it had to go in front of the BLNR Board. So, those, all of those issues coming into play kind of caused this delay into where we're at today.

The reason for the ROE was because of the timeframe, with the BLNR Board along with this body is the, the fastest thing to at least get us into the park, was with the ROE. And, again, the ROE as kind of discussed, not speaking as, as Corporation Counsel, but it does give us that opt-out. Say there is any kind of litigation or, you know what, this is just not working out, that June 30 date of the MOA that we can put forth or if there's any litigation that come up, at least that gives this body the opportunity to see if it's something that the County's going to move forward on.

The intent of the park, you know as we all know was to be turned over to the, to the County with an investment of over \$25 million from the State, which is a great opportunity and hasn't happened in decades. And, especially on Maui County, this is the first of that where a State park was being built to be turned over to the County.

And, this is just Phase 1. So, you know, we do have our phases coming out every, before that, by late next year, or late this year, I'm sorry, we should be getting the Phase 2, remaining of the quad.

So, again, I appreciate the consideration. Again, there are over 600 kids who will also be happy and considerate. I understand the rush put forth on this. But, I think the MOA will take away all of that, and we'll sit down in Committee and vet through that whole process. Thank you, Chair.

COUNCILMEMBER VICTORINO: Mr. Wong, I wanted to ask you one quick question if I may. And, maybe Mr. Wong, Mr. Buenconsejo can answer this also. Are we going to be responsible, because this is just Phase 1, and there's Phase 2, and I think Phase 3. I think there's a couple more phases if I'm correct. Are we going to be responsibly, responsible for any maintenance or any funding of the other two phases that the State has not completed at this point? Whoever wants to answer it.

DIRECTOR OF PARKS AND RECREATION: Chair.

COUNCILMEMBER VICTORINO: Okay, go ahead, Mr. Buenconsejo.

DIRECTOR OF PARKS AND RECREATION: No. Everything is funded by the State. So, Phase 1 is just a first phase turnover. We have no monetary obligation for the build out of that State park. Our obligation from a County standpoint would just be the operation of it upon completion of the phases.

COUNCILMEMBER VICTORINO: Yea, so, all are we taking on right now is Phase 1 until the regular MOU is agreed upon.

DIRECTOR OF PARKS AND RECREATION: Yes.

COUNCILMEMBER VICTORINO: And is that MOU going to be, and I guess the question I have for you and Mr. Wong, I guess, when we complete this first MOU, it's just on Phase 1. What happens with Phase 2 and 3? Will that MOU continue on or will you be coming back to this body for further discussion? I guess that's my question.

CORPORATION COUNSEL: Yea, Chair, if I may. The inclination would be as, in my opinion, as the State completes its phases, we will come back to this body in order to extend or increase the scope of the Memorandum of Agreement. Currently, the Memorandum concept is for Phase 1 and Phase 1 only. And, I would anticipate that as they develop, if the State wants to turn it over to us, they're going to ask us for that consideration, we're going to bring it back to this body.

As Director Buenconsejo says, the purpose of, or the overall intent is at some point in the future, once complete, the entire park should be turned over to, and in order for us to receive it, this body has to accept that transfer. So, at every step of the phase completion, if there is a increase in the scope of the MOA, it comes back here for consideration. And, every step that there's any expenditure of funds, it comes back here for that consideration.

So, it's a very cautious approach, but I prefer that than, than not. So, I assure you that moving forward, this body will have the opportunity to weigh in on the various phases and the acceptance of those phases.

COUNCILMEMBER VICTORINO: Mr. Guzman, you have further questions?

VICE-CHAIR GUZMAN: Yea, thank you, thank you, Chair. For the Director, I know you mentioned, yea, 600 children as well as, and I, I truly support that. But, there are residents in that Maui Lani area as well that are watching and, and are concerned about whether processes are being followed. And, so my question is, could this not happen if we took out the language of the MOA in the right-of-entry? Couldn't you

just have a blanket general right-of-entry without having the incorporates a lot of that MOA language?

COUNCILMEMBER VICTORINO: Mr. Buenconsejo, if you want to answer.

DIRECTOR OF PARKS AND RECREATION: Chair, I'll answer one part of that question, and I'll defer the other one to Mr. Wong.

COUNCILMEMBER VICTORINO: Go ahead.

DIRECTOR OF PARKS AND RECREATION: Regarding the residents of the neighborhood, I think a lot of the understanding from the residents or community that is there, in speaking with one of them just the other day actually, the public doesn't really realize the State and the County has worked together.

And the, the major issues for the park standpoint, I won't, as far as traffic standpoint I won't touch on the traffic, the issues that they have from the residents standpoint. But, for the park itself, the original resistance, again, was the baseball field with the lights and the lighting on the quads.

There, since the, the suit went through and the complaints of the community, the State and the County has decided there will be no baseball stadium with lights. That has been entirely removed. It's an open field space. The quads for the softball field and the little league field that it originally had lights on them as well for night games have also been removed.

So, in the future if the community decides in the future, want to put up lights, great, we can put up lights. But the, the major concerns for the lighting and late night games have kind of been taken off the table. That is no longer in the buildout of that park. So, thank you.

And, then Mr. Wong.

COUNCILMEMBER VICTORINO: Go ahead.

VICE-CHAIR GUZMAN: Thank you, Chair, cause I would have gotten that out of Committee.

I'm, I'm very glad that you're giving me this opportunity to get some information. I was unaware that that, that, that they weren't requiring lighting anymore. And, that was a bigger issue in that section.

COUNCILMEMBER VICTORINO: Right.

VICE-CHAIR GUZMAN: So, yea, if--

COUNCILMEMBER VICTORINO: Mr. Wong--

VICE-CHAIR GUZMAN: --Mr. Wong.

COUNCILMEMBER VICTORINO: --do you want to add anything to that?

CORPORATION COUNSEL: I, I, I just, Chair, if I may add one thing.

COUNCILMEMBER VICTORINO: Yes.

CORPORATION COUNSEL: And, and, I'll read, and maybe this may address Member Guzman's concerns as references throughout the Right-of-Entry permit has verbiage that refers to the MOA. If you direct your attention to the first page of Exhibit A, paragraph 1, numerical 1, this Right-of-Entry permit shall remain in effect until June 30, 2016, that's what we've represented to you. There's a "or" there, "or a memorandum of agreement is executed".

If you do not execute a memorandum of agreement, this document fails. The permit ends on June 30. So, it's not, that conjunction there to me is significant, because it separates the two. It doesn't, it's not inclusive. The right-of-entry is not inclusive of the MOA; it's "or", it's not "and". And, with that said, I believe the concerns that you may have, even having language stating MOA in there, I think just based on that conjunction "or" alone should address it.

COUNCILMEMBER VICTORINO: Okay. And, let me ask you this question, if I may, Mr. Wong. If on June 30, 2016, no memorandum of agreement is agreed upon or executed, at that point in time, we would no longer have the right-of-entry into this park, if I'm correct.

CORPORATION COUNSEL: That is correct.

COUNCILMEMBER VICTORINO: Okay, that's clear enough to me. That's clear enough for me.

VICE-CHAIR GUZMAN: So, Chair.

COUNCILMEMBER VICTORINO: Go ahead, Mr. Guzman.

VICE-CHAIR GUZMAN: I, I'll just conclude, you know. Chair, thank you very much for this opportunity. Like I said, I, I didn't have this opportunity to be engaged in a discussion. And, as Chair of the Parks and Rec Committee, I, I do appreciate this opportunity. I had many questions that were somewhat answered today.

I, I cannot support this measure on the floor. And, I'm sure you have the votes to pass it, but I, I think I've stated my cautions. And, and one thing that I've learned as the Chair of the EAR Committee is that I, I made it a point, I got burned one time by passing it out one, one item on the floor. And, I told myself I'll never do that again and everything will come to Committee.

That's why simple things such as donations go straight to the Committee, cause I, I didn't want to get caught in that same situation. So, and even more so this one because it's, it's such a high profile subject matter with the, with the residents in, in Maui Lani as opposed. And the State's, and the State's actions in the litigation at the ICA level, Intermediate Court of Appeals.

So, even more so I'm, I'm more cautious. So, please forgive me parents and, and athletes, and, my kids are in the same boat. I, I just want to be cautionary, and I have to live by a certain principle. And, that principle is following the, the process of this Committee in high level, you know, in scrutinized cases at most.

You know, so thank you very much, Members, for this opportunity. I will leave the floor to you, Chair, to proceed if you'd like.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Mr. Guzman. And, there's nothing to apologize. I think, you know, these are important questions that needed to be answered. These are issues that needed to be vented. And, it's not that we haven't spent a good half an hour on it. And we, we could spend another two or three hours on it to be perfectly honest.

But, I think the knowledge of no lights, which I was informed many months ago that the State had backed off of that. I'm surprised you never was given that information. But, I was informed many months ago that the State had backed off of that because of the residents concerns.

And, I, and in talking to some of the people, I know there are residents that's lived there, that was one of the big ones. The other one is traffic. And, the traffic will remain an issue until we really work on that issue, you know, on that particular part. But, I think they are, many of them are much more comfortable today, but the litigation is litigation. I won't go into that because it's there. And, now we have to live

with it whenever the outcomes become later on through the, through the whole process.

I will ask, yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank, thank you, Chair. And, thank you for this opportunity to vet this through and learned a lot. And, for me, I think the main thing that I learned which is key is this whole active litigation ongoing.

I don't think when Department had reached out to sort of give heads up, this is going to be coming to this body and pushed through like it is, that that was mentioned. I mean, I would have had further questions should that have been known. And, now receiving all this outside public testimony, especially, from abutting neighbors in this area where I don't live and, and know all the details. But, 11 pointed questions and a lot of them have been addressed and answered, perhaps not to my satisfaction, but they have been addressed and answered.

The one thing which is directly in purview to my particular Committee was infrastructure, is about the managing of retention basins in this final project. So, this is something I think there's a question mark behind it, as in who is it built for. We as County are to maintain it for a, for I guess A&B's Waiale Project. I, I don't know the answers to these Chair.

And, you know, this is one of those things where in my district I've had to not support good things, whether it be affordable housing or what have you, but to stand by what the neighbors' issues are. And, I think that, they look to this body to be their voice and their representation.

So, for me, hearing that perhaps this can continue on with or without our approval as in the opening. And I thought it was this big opening ceremony, toss the ball out, and big fanfare, but I guess it's just so we can go in and open it up so people can utilize the park. That also was a different picture that was painted in my head.

So, at this time, Chair, I'm going to stand by Mr. Guzman's call on this. I believe there's enough support to make it go through, but I'm going to stand by that, the fact that there are neighbors that truly are not satisfied. So, I'll make my decision when it comes that time when you call the vote, Chair. Thank you very much.

COUNCILMEMBER VICTORINO: Thank you. Any other comments? Seeing none, I'll call for the question. All those in favor of Bill 24, "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENT AGREEMENT WITH THE STATE OF HAWAII,

DEPARTMENT OF LAND AND NATURAL RESOURCES, RELATIVE TO THE MAINTENANCE AND USE OF THE COMPLETED PHASE OF CENTRAL MAUI REGIONAL SPORTS COMPLEX", signify by saying "aye".

COUNCILMEMBER HOKAMA: Aye.

COUNCILMEMBER COUCH: Aye.

COUNCILMEMBER CRIVELLO: Aye.

COUNCILMEMBER CARROLL: Aye.

COUNCILMEMBER VICTORINO: Opposed.

VICE-CHAIR GUZMAN: No.

COUNCILMEMBER COCHRAN: No.

AYES: COUNCILMEMBERS BAISA, CARROLL, COUCH, CRIVELLO, HOKAMA, AND VICTORINO.

NOES: COUNCILMEMBER COCHRAN AND VICE-CHAIR GUZMAN.

EXCUSED: CHAIR WHITE.

COUNCILMEMBER VICTORINO: If I count right, I count six "ayes", two "noes", one "excused". Okay, the two "noes" was Ms. Cochran and Mr. Guzman. And, the excused is Mr. White. The measure pass. Thank you very much.

Mr., do we want to switch or we just can adjourn the meeting? Okay. We don't want to waste all that time switching again, okay.

You know, again, thank you for the opportunity, Mr. Guzman. And again, you really did help bring out some important points I think the public needed to hear. And, now I think that leaves a little reassurance as far as this is concerned.

Ladies and gentlemen, we have concluded the business of the Council today.

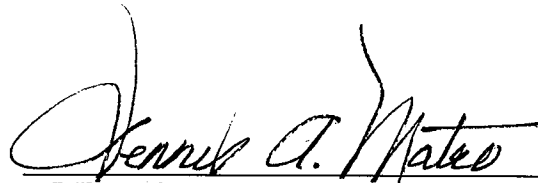
Mr. Clerk, we don't have anything else?

COUNTY CLERK: No further business, Chair.

COUNCILMEMBER VICTORINO: No further business. Thank you very much. I would like to thank our wonderful staff, the Clerk and the rest of the staff members for being here. Thank you, Mr. Raatz for being here and advising us on some issues. I'd like to thank the Administration, Mr. Wong and Mr. Buenconsejo for being here, and other administrators that were here today that were available if questions were brought up about other issues. And, so with no further ado, the meeting of March 4, the Council meeting of March 4, 2016, is now adjourned.

ADJOURNMENT

The regular meeting of March 4, 2016 was adjourned by the Chair at 11:25 a.m.



DENNIS A. MATEO, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII